

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

The Midwest Disability Initiative and Gerald Doyen,)	
)	
)	
Plaintiffs,)	
)	Case No:
v.)	
)	
TSW Enterprises, Inc. d/b/a BLVD Bar & Grille, and Clear Choice Properties, LLC)	
)	
Defendants.		

NOTICE OF REMOVAL

Defendant Clear Choice Properties, LLC by counsel, with the consent of Defendant TSW Enterprises, Inc. d/b/a BLVD Bar & Grille (Exhibit 1), and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby remove the above-entitled action, which is currently pending in the First Judicial District Court, County of Dakota, Minnesota, and states as follows:

Background

1. On November 15, 2017, Defendants received the summons and complaint of Plaintiffs The Midwest Disability Initiative and Gerald Doyen (Exhibit 2). Plaintiffs' action is venued in the First Judicial District Court, Dakota County, Minnesota, and asserts claims under the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*

2. The Summons and Complaint constitute "all process, pleadings, and orders served upon" TSW Enterprises, Inc. d/b/a BLVD Bar & Grille and Clear Choice Properties, LLC in this action to date. 28 U.S.C. § 1446(a).

Timeliness of Removal

3. TSW Enterprises, Inc. d/b/a BLVD Bar & Grille and Clear Choice Properties, LLC received the summons and complaint on November 15, 2017. Therefore, this notice of

removal is timely under 28 U.S.C. § 1446(b) because fewer than 30 days have passed since TSW Enterprises, Inc. d/b/a BLVD Bar & Grille and Clear Choice Properties, LLC's receipt of Plaintiffs' summons and complaint.

Removal Jurisdiction

4. This action is properly removable under 28 U.S.C. § 1441 because this Court has original jurisdiction of this case under 28 U.S.C. § 1331, which provides in pertinent part: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

5. Specifically, Plaintiffs' complaint alleges that TSW Enterprises, Inc. d/b/a BLVD Bar & Grille and Clear Choice Properties, LLC violated 42 U.S.C. § 12182(a) by failing to make its property fully accessible to persons with disabilities. Plaintiffs' complaint seeks injunctive relief under 42 U.S.C. § 12188.

6. Because Plaintiffs' claims are brought under the ADA, this is a civil action "arising under the Constitution, laws, or treaties of the United States" pursuant to Section 1331, and removal is appropriate pursuant to Sections 1441 and 1446.

7. Removal to this Court is proper as the United States District Court for the District of Minnesota embraces Dakota County, Minnesota, where the state court action was venued.

Notice to State Court and Plaintiffs

8. Pursuant to 28 U.S.C. § 1446(d), TSW Enterprises, Inc. d/b/a BLVD Bar & Grille and Clear Choice Properties, LLC are promptly providing written notice of this removal to Plaintiffs and will promptly file a copy of this Notice of Removal with the Dakota County Clerk of Courts. (Exhibit 3).

WHEREFORE, Defendant Clear Choice Properties, LLC, with the consent of Defendant TSW Enterprises, Inc. d/b/a BLVD Bar & Grille respectfully requests that the above-entitled action be removed from the First Judicial District Court, County of Dakota, Minnesota to this Court.

Dated: December 13, 2017

REDING & PILNEY, PLLP

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